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Responses to Information Requests

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10 October 2014

CHN104967.E

China: Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview of Police System in China

According to two sources, the police system comprises the following components or branches: the public security police, the state security police, the prison police, and the judicial police for people's courts and procuratorates (Research Assistant Professor 23 Sept. 2014; Ma 2014, 64). This Response to Information Request covers the public security police only; for more information on state security police, prison police, and judicial police, please refer to the attachment included with this Response.

2. Public Security Police

According to a chapter titled "The Police System in China" by Yue Ma [1], which was published in the 2014 *Routledge Handbook of Chinese Criminology*, the "public security police" are the largest component of the police force (2014, 64). Sources note that the public security police force [excluding auxiliary forces such as the People's Armed Police Force (PAPF) and Chengguan police] is reportedly made up of approximately 1.9 million active duty police officers (Tanner 3 Jan. 2013, 88; Research Assistant Professor 23 Sept. 2014;). In correspondence with the Research Directorate, a research assistant professor in the Faculty of Law at the Chinese University of Hong Kong estimated that the overall number of police officers for Guangdong was approximately 152,000 (ibid.). Information about the number of officers in other regions of China could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Ma states that the public security police force is directed and coordinated by the Minister of Public Security (MPS) (Ma 2014, 64). In a report titled *Intensifying Contradictions: Chinese Policing Enters the 21st Century* by the National Bureau of Asian Research (NBR) [2], the author explains that "domestic security forces" include a wide range of institutions and are "not grouped neatly on organizational charts," and that "policing institutions should be considered part of the much larger social-management ... apparatus that includes nearly every organ of the Chinese state" (NBR Feb. 2013, 20). According to the NBR report, the MPS has a "very broad set of responsibilities to maintain social order that extend far beyond what is normally handled by a US police department" (ibid., 14).

2.1 Police Ranking System

The chapter titled "Police Reform" in the 2009 book, *Chinese Policing: History and Reform*, by Kam C. Wong, a professor of criminal justice at Xavier University in Ohio, includes information from a presentation by an Associate Research Fellow in the MPS, that indicates Chinese police are classified into the following ranks:

General-Commissioner (awarded to the Minister of MPS or Minister of State Security (MSS)), Deputy General-Commissioner (awarded to deputy ministers of MPS or MSS), Commissioner (1st, 2nd, 3rd grade), Superintendent (1st, 2nd, 3rd grade), Sergeant (1st, 2nd, 3rd grade), Constable (1st, 2nd grade) (Wong 2009, 9-10).

2.2 MPS and Public Security Bureaus (PSB) Organizational Structure

Ma describes the organization of the public security police force as follows:

Under the Ministry of Public Security, in each province, autonomous region, and municipality directly under the central government, there is a provincial level public security bureau [PSB]. Under the provincial level public security bureau, in provinces and autonomous regions, there are municipal and county public security bureaus. In municipalities directly under the central government, there are district and county public security bureaus. At the bottom of the police hierarchy, numerous police stations are set up in larger communities across the country. (Ma 2014, 64)

According to Wong, under the MPS, there are 22 provincial level PSBs, 5 autonomous region PSBs, and 4 PSBs in the municipalities administered by the central government [Beijing, Tianjin, Shanghai, Chongqing (Research Assistant Professor 23 Sept. 2014)] (Wong 2009, 8). The Research Assistant Professor indicated that Fujian province has 89 count-level PSBs; Guangdong province has 121 PSBs at the county, city, and district level and 20 PSBs in central economic zones, with 58 PSBs at the township level (23 Sept. 2014). For further information on the structure of the MPS and PSBs please refer to Wong's chapter: "Police Reform" from the book *Policing in China: History and Reform*, an excerpt of which is attached to this Response.

The Research Assistant Professor explained that the organizational structure of the MPS includes "political organs", such as a party committee and party discipline committee [3], "administrative units," "operational units," police academies, professional foundations, and tactical units (23 Sept. 2014).

2.3 Operational Units

The Interpol website identifies the following "essential" operational agencies that make up MPS: national security, economic crime investigation, border control, criminal investigation, fire control, prison security, traffic control, international police cooperation, drug control, and counter-terrorism (Interpol 18 July 2014). Similarly, Wong writes that within the MPS there are approximately 20 departments and each is "responsible for administering or coordinating a specific police function nationwide" (Wong 2009, 11). Wong notes that PSBs below the provincial level have "divisions or sections in charge of specific duties" similar to the MPS (2009, 11). For further information on these divisions, refer to page 11 of the attachment. Guangdong province and Fujian province have a number of specialized divisions within their respective PSBs [4] (Research Assistant Professor 23 Sept. 2014).

According to the Research Assistant Professor, there are no "striking differences" between the organizational structure of the MPS and the province-level PSBs (23 Sept. 2014). The same source explains that below the provincial level, organizational differences in PSBs [in Guangzhou and Fuzhou] may be explained by "different law-enforcement priorities" (ibid.).

2.4 Public Security Police Tactical Units and Auxiliary Police, including People's Armed Police Force (PAPF) and Chengguan Police

The Research Assistant Professor indicated that public security police tactical units have been established in every province and in five major cities, and include "special patrol units" (SPU) [also known as special weapons and tactics, SWAT] and "anti-terrorism assault squads" (23 Sept. 2014). The anti-terrorism squads are reportedly active in cities including Beijing, Shanghai, Chongqing, Shenzhen, and Wuhan (ibid.). According to a chapter on China's internal security written by Murray Scot Tanner, a Senior Research Scientist in the China Strategic Issues Group at the CNA Corporation [5], which was published in the *Handbook of China's Governance and Domestic Politics*, 4 directly administered cities (Beijing, Shanghai, Tianjin and Chongqing), 22 provincial capital cities and 5 capitals in autonomous regions have established their own SWAT, or "special police corps" (Tanner 3 Jan. 2013, xii, 93).

Additionally, there are other forms of policing also present in China, such as the PAPF [also known as People's Armed Police, PAP], which assists in managing domestic unrest and is under joint leadership of the MPS and the military (ibid., 91; NBR Feb. 2013, 14). According to Tanner, PAPF units can also be called on to mobilize under the "operational leadership" of local PSBs (3 Jan. 2013, 91). According to a report titled *Understanding China's Political System* by the United States Congressional Research Service (CRS), a research service for congressional committees and members of congress in the United States that provides reports on

major policy issues (US n.d.), the PAPF is estimated to be made up of 1.5 million members (ibid. 20 Mar. 2013, 13).

Sources report that the low ratio of public security force police to the population has resulted in local governments hiring temporary or irregular police, known as *chengguan* [also known as urban management security officials], to supplement the professional force (Tanner 3 Jan. 2013, 95; NBR Feb. 2013, 26). The US Department of State's *Country Reports on Human Rights Practices for 2013* reports that local jurisdictions "frequently" used *chengguan* in order to enforce administrative measures (US 27 Feb. 2014, 9). According to Human Rights Watch's 2012 report, "*Beat Him, Take Everything Away*": *Abuses by China's Chengguan Para-police*, these units were present in 308 municipalities by 2005 (Human Rights Watch May 2012, 3). Furthermore, the same source indicates that there is "no overarching regulatory framework laying out the permissible scope of duties, no uniform training requirements or code of conduct" for *chengguan* units (ibid.).

3. Relationship of MPS and PSBs with the State, including Oversight and Reporting Hierarchy

Freedom House reports that the Communist Party of China (CPC) [also known as Chinese Communist Party (CCP)] "controls and directs" security forces at all levels (Freedom House 2014). According to the US CRS report, "on official organization charts, all ministries report to the State Council," China's cabinet (US 20 Mar. 2013, 29). The same source reports, however, that "in practice," a number of ministries, such as the MPS, "report directly to the Communist Party entities that oversee their work" (ibid.). The Minister of Public Security serves on the State Council, and is concurrently the Secretary of the Ministry's Party Committee, the Commissioner-General of the police force (ibid., 30; *China Daily* 21 Mar. 2013), and a member of the CPC Central Committee [6] (ibid.). As a member of the Central Committee, the Minister of Public Security serves on the CPC's Central Commission of Law and Politics, which is "responsible for ensuring party control over the internal domestic security apparatus" and oversees the work of the police (US 20 Mar. 2013, 17, 25).

3.1 Political-legal Committees

According to the NBR report, each lower level party organization has a political-legal committee, responsible for overseeing the local police, which is "generally led by one of the highest-ranking party members at that level" (NBR Feb. 2013, 13-14). The Research Assistant Professor explained that these political-legal committees exist at the national, provincial, municipal, and local levels, and that secretaries/vice-secretaries of local party committees can double as the directors of local PSBs (23 Sept. 2014). According to the US CRS report, the oversight of the judiciary and police by the political-legal committees means that commissions are "empowered to intervene to obtain outcomes in the Party's interest" and this reportedly undermines the "authority of the law" (US 20 Mar. 2013, 17). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to a 2011 article published in the peer-reviewed journal *Taiwan in Comparative Perspective* titled "Changing Policing in the People's Republic of China" by Michael Palmer, a professor with the School of Oriental and African Studies at the University of London, "within the Party at any given level, the chief of the police usually enjoys a more authoritative position than the heads of either the procuracy or the courts" and that this "entrenched authority enables the police to resist criticism and reform" (Palmer 2011, 88). Similarly, *China Times*, an English-language daily newspaper in China, reports that this position at the head of the law and politics committees has led to "widespread abuses of power" and allows an individual to have "effective control" over a region's law and order system, "usually without higher oversight" (*China Times* 7 June 2012). However, according to a 2012 article by the *Economist*, provincial police were being placed "more firmly" under CPC control in 2012, as provincial police chiefs were "being dropped" as heads of the political-legal committees, which oversee the police, courts, and prosecutors (*The Economist* 30 June 2012). According to the same source, as of 30 June 2012, 9 out of the 30 provincial political-legal secretaries continued to serve concurrently as police chiefs (ibid.). This was down from figures observed 5 years before when 13 out of 31 provincial political-legal secretaries served concurrently as police chiefs (ibid.). *China Times* also reported that in Guangdong province, in 2012, planned reforms to the system would result in the CPC deputy party secretary for each city being appointed as the head of the political-legal committees of 21 cities, instead of the chief of police (7 June 2012). Information about whether these reforms were implemented could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.2 Dual Leadership System

Sources report that the police operate using a "dual leadership system" (Research Assistant Professor 23 Sept. 2014; Wong 2009, 7; Tanner 3 Jan. 2013, 90), in which the main leadership is exercised "horizontally" by the local Party and government officials (ibid.). The Research Assistant Professor explained that this means that "any public security organ 'answers' to both the public security organ at the next highest level and the people's government at the same level" (23 Sept. 2014). Similarly, the NBR report explains that domestic

security institutions are "subject to the party leadership on the same level, for both authorization and funding" (NBR Feb. 2013, 22). Consequently,

city police are financed by and take orders from city-level party leaders, county police fall under county-level party committees, and so forth, all the way up to the level of the national ministries. Of course, lower-level policing units also receive orders from their higher-level counterparts - for example, all public security organs are ultimately governed by the MPS bureaucracy. (ibid.)

According to Tanner, in local PSBs at provincial, municipal, and county levels, "local Party and government leaders have the dominant voice" and "exercise primary leadership" over funding, personnel, and oversight organs, while public security departments "at the next superior level primarily exercise professional guidance," such as consultation on personnel matters (3 Jan. 2013, 90). Similarly, Palmer indicates that "police continue to be answerable" to local party committees, who appoint and remove police personnel, while police are funded by local governments (Palmer Mar. 2011, 83). Palmer further notes that as a result, "the implementation of policies emanating from the central leadership very much depends on the *local* [emphasis in the original source] Party leadership" (ibid.).

4. Police Misconduct

According to *Country Reports 2013*, corruption at the local level in China is "widespread" (US 27 Feb. 2014, 9). Sources report that local authorities "misuse" the police forces (NBR Feb. 2013, 25; Tanner 3 Jan. 2013, 90) and do so to carry out a range of abuses, including forcible evictions, extortion, and personal missions (ibid.). According to *Country Reports 2013*, police and urban management officials reportedly engaged in "extrajudicial detention, extortion, and assault," and security forces have engaged in "arbitrary and unlawful killings" (US 27 Feb. 2014 9, 2). Freedom House indicates that security agents "flout legal protections" and "impunity is the norm" in relation to police brutality and suspicious deaths occurring in custody (Freedom House 2014). According to Tanner, auxiliary security forces are "widely" reported to be involved in arbitrary, abusive, violent, and unlawful investigation and enforcement (Tanner 3 Jan. 2013, 95). The NBR reports that the irregular police hired by PSBs are "prone to violence, abuse, disregard for established procedures" (Feb. 2013, 26).

4.1 Police Accountability Mechanisms and Oversight

According to an article published in the journal the *China Quarterly*, "[v]iolations of Party and state discipline by public security and PAP [PAPF] officials are handled primarily by local Party organization, discipline inspection and state supervision departments at the same [local] level" with superior public security units playing a "subsidiary" role (Tanner and Green Sept. 2007, 661). According to the same source, in terms of oversight, this has resulted in "upper level public security organs [having a] lack of effective mechanisms to constrain lower-level public security organs" (ibid., 662). Furthermore, *Country Reports 2013* indicates that "oversight of civilian municipal security forces was highly localized and ad hoc" (US 27 Feb. 2014, 9). Two sources report that the judicial authorities cannot investigate Party members without Party consent (ibid. 20 Mar. 2013, 17; NBR Feb. 2013, 21).

According to Ma, the People's procurate has the "general oversight authority" over police to "assure the legality of police actions" (Ma 2014, 72). However, according to *Country Reports 2013*, judicial oversight of the police is "limited" (US 27 Feb. 2014, 9). Sources report that cases of criminal prosecution against police for abuse of power are rare (ibid.; Ma 2014, 72). According to Palmer, "administrative review" is an avenue of complaint against police that permits an aggrieved citizen to file for a review at the "next superior level within the same branch of government;" 25 percent of administrative review cases have reportedly been over allegations of police misconduct in the past decade (Palmer 2011, 92). Palmer reports that "the administrative review regime for responding to complaints from citizens is limited in effectiveness," due to "the difficulties created by the political environment in which it has to operate" and the "apparent lack of independence" of the process (ibid.).

According to Ma, "police decisions to impose administrative sanctions are not subject to judicial approval" and for citizens, "challenging police decisions in administrative courts [and the imposition of administrative sanctions, including the imposition of fines, administrative detention or reeducation through labour (RTL) camps], is the only way to subject police decisions to some form of judicial control" (Ma 2014, 73). Information on particular cases brought against police force members in administrative courts could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2013 notes that forms of redress against official abuse are "limited" (US 27 Feb. 2014, 2). Sources indicate that citizens have the right to petition the government and present grievances through the petitioning system [called *xinfang*, or "letters and visits" (Palmer Mar. 2011, 11)] (US 27 Feb. 2014, 11;

Palmer Mar. 2011, 91), including for complaints against police (ibid.). However, while individuals can use the petitioning system, the NBR report notes that local officials are subject to penalties if they fail to limit the flow of petitioners to Beijing (NBR 2013, 28). Freedom House notes that the number of petitioners who file petitions in Beijing impact a provincial and city official's chance of promotion (Freedom House 2014). As a result, this same source reports, local officials "routinely" intercept, harass and detain petitioners in "black jails" [unofficial holding facilities (US 27 Feb. 2014, 2)] or labour camps, and subject petitioners to beatings and abuse (Freedom House 2014). Similarly, Palmer reports that the petition complaint system results in the unlawful detainment, assault and torture of complainants (Mar. 2011, 91). According to a 2014 article published by Radio Free Asia (RFA), nearly 20,000 grievances are filed daily across China, and petitioners interviewed by RFA said they have waited years and sometimes decades without receiving a response (RFA 24 Apr. 2014).

5. Witness Protection Programs

The newly amended Criminal Procedure Law from 1979 came into force on 1 January 2013 (AI 15 July 2013), and includes several provisions related to witness protection:

Article 61 People's courts, people's procuratorates, and public security authorities shall ensure the safety of witnesses and their close relatives. Whoever intimidates, insults, beats, or retaliates against a witness or his or her close relatives shall be subject to criminal liability in accordance with law if it constitutes a crime; or shall be subject to punishment in public security administration in accordance with law if it is not criminally punishable. (China 1979a, Art. 61).

Article 62 When a witness, identification or evaluation expert, or victim testifies about a crime involving national security, terrorist activities, organized crime of a gangland nature, or a drug crime that endangers the personal safety of the witness, identification or evaluation expert, victim or close relatives of the victim, the People's Court, People's Procuratorate, and public security authority shall take one or more of the following protective measures: (1) it shall not disclose his or her true personal information, such as name, residence, and employer; (2) it shall not expose his or her image, true voice, etc., when he or she takes the stand; (3) it shall prohibit particular persons from contacting the witness, identification or evaluation expert, the victim and the victim's close relatives; (4) it shall provide special protection for such witness's body and residence; and (5) it shall provide other necessary protective measures. When a witness, identification or evaluation expert, or victim believes that his or her personal safety or that of his or her close relatives is endangered by his or her testimony in criminal procedures, he or she may request protection from the People's Court, People's Procuratorate, and public security authority. The relevant entities and individuals shall cooperate with the People's Court, People's Procuratorate, or public security authority in taking protective measures in accordance with law. (China 1979b, Art. 62)

Article 188 Where, after being notified by a people's court, a witness refuses to testify before court without justifiable reasons, the people's court may force the witness to appear before court, unless the witness is the spouse, a parent, or a child of the defendant.

A witness who refuses to appear before court or refuses to testify after appearing before court without justifiable reasons shall be admonished; and if the circumstances are serious, with the approval of the president of the people's court, the witness may be detained for not more than 10 days. Against the detention decision, the detainee may apply to the people's court at the next higher level for reconsideration. Execution of the detention decision shall not be suspended pending reconsideration. (China 1979a, Art. 188).

Information on the implementation of witness protection measures since the new law came into force in 2013 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response; however, the following information may be useful.

According to sources, China continues to have very low witness attendance rates (McConville 2011, 242; US 27 Feb. 2014, 17). In most criminal trials, prosecutors often read out witness statements rather than permitting live witness testimony (ibid.; McConville 2011, 242). In his 2011 book titled *Criminal Justice in China: An Empirical Inquiry*, Mike McConville, Founding Dean and Emeritus Professor in the faculty of law at the Chinese University of Hong Kong, writes that in interviews with prosecutors, he found that witnesses were reluctant to appear due to fear of violence and threats from defendants, and due to "insufficient" protection for witnesses who testified in court (2011, 245). According to the NBR report, in cases involving organized crime or official corruption, "even neighborhood committees fear retaliation and suppression, especially if local police are involved" (NBR Feb. 2013, 26).

Additionally, McConville found that, according to interviews with lawyers, some police officers threaten witnesses in order to discourage them from testifying (2011, 245). The source notes that defense witnesses fear violence and threats from police and state organs, including the procurate; and that defense witnesses reportedly face a "great risk" of revenge by public security organs, including detention, arrest, and prosecution (ibid.). Similarly, Human Rights Watch interviewed criminal lawyers for the 2008 report *"Walking on Thin Ice"*:

Control, Intimidation and Harassment of Lawyers in China, and found that intimidation of witnesses by the police occurs "often" (April 2008, 78). In a case reported by Human Rights in China (HRIC), a US-based NGO that conducts advocacy work on human rights issues in China (HRIC n.d.), police reportedly coerced a witness to testify on behalf of the prosecution, and detained and mistreated him (ibid. 27 Nov. 2006). Further information on witness protection programs in China could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Yue Ma is a professor in the Department of Law and Police Science at the John Jay College of Criminal Justice in New York, who researches Chinese criminal justice and policing (Ma 2014, xiii).

[2] The NBR is a nonprofit, nonpartisan research institute that conducts research on strategic, political, economic, and globalization issues that affect US relations with China (NBR Feb. 2013, 2)

[3] According to the US CRS report, "Party policy is communicated down the layers of the Party organization by means of directives and Party committee meetings" (US 20 Mar. 2013, 20).

[4] Guangdong province PSB includes the following divisions: Antidrug Bureau - Border Protection Squad - Criminal Investigation Bureau - Economic Crime Investigation Bureau - Education and Training Department (this is a section of the Political Department) - Equipment and Finance Department - Exit and Entry Administration Department - Fire Brigade - "Flying Squad" (Rapid Response Team) - Information and Communication Department - Domestic Security Protection - Legal Department - Police Supervision Department - People's Armed Police Department - Personnel Department (this is a section of the Political Department) - Prison Administration Department - Propaganda Department - Public Information Network Safety Inspection Department - Public Security Administration Bureau - Technical Department - Transport Administration Bureau - Railway Police - Forest Police - Inspectorate General of Customs (Guangdong Branch) - Anti-smuggling Bureau - Central-South Area of the Civil Aviation Administration of China PSB - Baiyun International Airport PSB - Canton Harbor Patrol.

Fujian province PSB includes the following divisions: Airport Public Security Bureau - Antidrug Brigade - Border Protection Brigade - Criminal Investigation Brigade - Economic Crime Investigation Brigade - Education and Training Department (this is a section of the Political Department) - Exit and Entry Administration Department - Fire Brigade - Forensic Science Department - Fujian People's Government Office for the Comprehensive Management of Striking at Smuggling - Domestic Security Protection Brigade - Legal System Brigade - Police Supervision Department - People's Armed Police Department - Personnel Department (this is a section of the Political Department) - Prison Administration Brigade (Bureau) - Propaganda Department - Equipment and Finance Department - Public Information Network Safety Inspection Department (Network Security Protection Brigade) - Public Security Administration Brigade - Retired Cadres Department - Technology Information and Communications Department - Transport Police Brigade - Fujian Police College - Fujian Security Technology and Protection Industry Association - Fujian Private Security Association (Research Assistant Professor 23 Sept. 2014).

[5] CNA Corporation is a non-profit research and analysis organization located in Arlington, VA (CNA n.d.).

[6] The Communist Party Central Committee members "'elect' the Politburo, Politburo Standing Committee, and Party General Secretary, and 'decide' on the composition of the Party's Central Military Commission. In practice, incumbent top officials provide a list of nominees to the Central Committee, which ratifies it" (US 20 Mar. 2013, 23).

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Additional Sources Consulted

Oral sources: Attempts to contact the following organizations and individuals were unsuccessful within the time constraints of this Response: associate professor of law, Seton Hall University; China – Embassy of the People's Republic of China; Dui Hua Foundation; Human Rights in China); Interpol; professor of law, George Washington University Law School; professor of law, Yale University School of Law. The following organizations and individuals could not provide information for this information request: professor of criminology, Hong Kong University; professor of law, University of Saint Joseph (Macau); professor of politics, Goldsmiths University; senior fellow, Faculty of Law, University of California, Berkeley.

Internet sites, including: American Bar Association Rule of Law Initiative; Amnesty International; BBC; China – Embassy of the People's Republic of China, Fujian Provincial Department of Foreign Trade and Economic Cooperation, Guangdong and Fujian Public Security Bureaus, Ministry of Public Security; China Digital Times; Dui Hua Foundation; ecoi.net; Europe China Research and Advice Network; *The New York Times*; *South China Morning Post*; US-Asia Law Institute; United Nations – Integrated Regional Information Networks, Refworld.

Attachment

Wong, Kam C. 2009. "Police Reform." *Chinese Policing: History and Reform*. New York: Peter Lang Publishing. Sent by the author to the Research Directorate, 9 September 2014.

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